IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Crl.MC.No. 3130 of 2007()

CC.562/2001 of JUDL. MAGISTRATE OF FIRST CLASS-IV, KOZHIKODE

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PETITIONER: ACCUSED

KAMAL AHUJA, S/O. ANAND AHUJA,
AGED 49 YEARS, M/S. POTENTIAL BUILDERS,
THAKUR HOUSE, ASHOK NAGAR, KANDIVALI (EAST),
BOMBAY.

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENTS:

STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3130 of 2007

Dated this the 10th day of October, 2007

O R D E R

The petitioner faces indictment in a prosecution for the offences punishable, inter alia, under Section 420 I.P.C. The petitioner had come before this Court and this Court had directed the petitioner to surrender before the learned Magistrate positively on or before 25.09.07. On account of reasons beyond the control of the petitioner, the petitioner could not appear before the learned Magistrate on 25.09.07 personally, it is submitted. He appeared through counsel and filed an application for condoning his absence. That petition was dismissed and a warrant of arrest has been issued against the petitioner.

2. According to the petitioner, he is absolutely innocent. His absence on 25.09.07 was not wilful. He has filed an application explaining the circumstances under which he could not appear. He is willing to surrender before the learned Magistrate. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-